IN THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL APPEAL NO. 9 OF 2002.
AND
CRIMINAL MISC. APPLICATION NO. 38 OF 2002.

Shri Prakash L. Galatgi,
son of Laxman Galatgi,
resident of Tank Adnem,
Quepem, Goa, originally from
Harogiri Raibag, Belgaum,
Karnataka. ... Appellant.

VERSUS

S T A T E,
through its P.P.,
High Court of Bombay,
at Goa, Panaji, Goa. ... Respondent.

Mr. D. Pangam, Advocate under Legal Aid Scheme for the Accused/Appellant.

Mr. A. P. Lawande, Public Prosecutor for the State/ Respondent.

CORAM: D. G. DESHPANDE, J.

DATE: 16TH JANUARY, 2003.

ORAL JUDGMENT:

Heard the Advocate for the Accused/Appellant who was appointed under the Legal Aid Scheme.

2. The accused is in jail since 17.5.99. He has been convicted by the Trial Court under Section 307 I.P.C. and sentenced to suffer Rigorous Imprisonment for five years by Judgment dated 7.11.2001.

3. Counsel for the accused contended that he has

gone through the entire paper book and he would restrict his argument only on the point of sentence. According to him the accused and the victim were labourers. There was a hot exchange of words, after which both of them got drunk and in that quarrel the accused inflicted one single blow by house knife. Therefore looking to the background in which the quarrel took place and the economic strata to which the accused and the victim belonged, that the accused could not have availed of bail. The offence was only under Section 307 I.P.C. and he has been in custody for three years and eight months. The sentence of five years can, in the instant case, be reduced to the sentence undergone. Counsel for the accused also pointed out that as submitted before the Trial Court, the accused has an old father to look after and also has two children and therefore considering all these circumstances that the sentence be reduced by taking a lenient view.

4. On the other hand, the learned Public Prosecutor for the State, Mr. Lawande contended that in the circumstances, the prayer of the accused does not appear to be unreasonable, because only one injury has been caused which is evident from the deposition of the Doctor (P.W.4) that the victim Balu Shamrao Hukke had a perforated wound on the left side of the abdomen

and that the external size of the wound was about 2 x 1 cms. and the knife used in the house was capable of causing such injury. P.W.2 who is the victim in this case has stated in his examination-in-chief that he was in the hospital for six days and was discharged on the seventh day.

5. The background in which the quarrel had taken place as deposed by P.W.2 and also by P.W.7, and considering the nature of the injury and the fact that only house knife was used and that the victim was in the hospital for six days and the fact that both the accused and the victim were labourers and the accused could not avail of bail since he was in custody for three years and eight months, this is a fit case for reduction of sentence.

6. Therefore this appeal is partly allowed. The conviction of the accused under Section 307 I.P.C. is maintained. However, his sentence is reduced to the extent of the period of sentence already undergone by him. The accused shall be released if not required in any other case.

7. Criminal Misc. Application also stands disposed of.

D. G. DESHPANDE, J.

sl.